

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

ORDER

03-CR-1104 (DRH)

-against-

VANDERLEI B. FERREIRA,

Defendant,

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A P P E A R A N C E S:

For the Government:

Roslynn R. Mauskopf  
United States Attorney  
Eastern District of New York  
Alfonse M. D'Amato Courthouse  
610 Federal Plaza  
Central Islip, New York 11722  
By: Demetri Jones, A.U.S.A.

For Defendant:

Peter J. Tomao, Esq.  
226 Seventh Street, Suite 302  
Garden City, New York 11530

**HURLEY, District Judge:**

Defendant-Appellant Vanderlei B. Ferreira ("Ferreira") was sentenced by this Court on April 15, 2004 to, among other things, 27 months imprisonment and 3 years supervised release. Ferreira appealed that sentenced.

Given that the Court's sentence was imposed before the Supreme Court's decision in *United States v. Booker*, 125 S. Ct. 738 (2005), the Circuit remanded the case "for further proceedings in conformity with [*United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005)]." By Order dated June 14, 2005, the Court directed the parties to submit letter briefs detailing their respective positions.

The *Crosby* decision requires the Court to consider whether it would have imposed “a materially different sentence, under the circumstances existing at the time of the original sentence, if [it] had discharged [its] obligations under the post-*Booker/Fanfan* regime and counsel had availed themselves of their new opportunities to present relevant considerations, . . . .” 397 F.3d at 117. After having considered the factors delineated in 18 U.S.C. § 3553(a) and the now advisory guideline range of 27 to 33 months, and after having reviewed the materials that were available to the Court when sentence was pronounced, as well as the recently filed letter briefs, the Court concludes that it would have imposed the same sentence now, i.e. post-*Booker/Fanfan*, as was imposed on April 15, 2004.

**SO ORDERED.**

Dated: Central Islip, New York  
August 4, 2006

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DENIS R. HURLEY, U.S.D.J.